

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**ELENA REYES,**

**Plaintiff,**

**v.**

**SWIFT & COMPANY,**

**Defendants.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**CASE NO. 8:05CV183**

**ORDER TO SHOW CAUSE**

This matter is before the court on defendant's Motion to Dismiss. (Filing No. 21). Defendant asks this court to dismiss plaintiff's complaint with prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

Plaintiff filed her complaint with this court on April 22, 2005. (Filing No. 1). On November 14, 2005, the parties were sent a scheduling packet directing them to meet and confer by December 2, 2005. (Filing No. 11). Defendant contends that while plaintiff stated she would attend a Rule 26(f) planning meeting she failed to attend the meeting, and therefore, defendant filed the Rule 26 report without any input from plaintiff.

On December 12, 2005, this court issued an Initial Progression Order requiring the parties to serve their mandatory disclosures on or before February 28, 2006. (Filing No. 15). Defendant states that it timely filed its Rule 26 mandatory disclosures but plaintiff failed to make such disclosures to defendant.

On April 14, 2006, defendant filed a motion to compel Rule 26(a) disclosures and a motion to extend deadline for filing dispositive motions. (Filing Nos. 18 & 19). Defendant based its request on plaintiff's failure to serve defendant with her mandatory disclosures and failure to make herself available for a deposition. On April 24, 2006, this court issued

an Order granting defendant's motions and ordering the plaintiff to serve her initial disclosures on defendant by May 12, 2006. (Filing No. 20). Defendant states that despite further attempts by its attorney to contact plaintiff by telephone and written correspondence plaintiff has failed to respond to defendant.

A district court has power to dismiss a case for failure to prosecute or failure to comply with a court order. Fed. R. Civ. P. 41(b). Pro se litigants are not excused from compliance with substantive and procedural law. *Brown v. Frey*, 806 F.2d 801, 804 (8th Cir. 1986). Here plaintiff has failed to comply with two Orders of this court. Therefore, the plaintiff shall respond to this Order to Show Cause and notify the court why she has failed to comply with the Orders issued by this court.

**IT IS ORDERED:**

1. That by July 7, 2006 the plaintiff shall file a pleading entitled Response to Order to Show Cause explaining any reason the plaintiff may have why the above-entitled case should not be dismissed for failure to prosecute; and

2. That in the absence of a timely and sufficient Response to Order to Show Cause, this case may be subject, without further notice, to dismissal pursuant to Fed. R. Civ. P. 41(b) by District Judge Laurie Smith Camp.

DATED this 16<sup>th</sup> day of June, 2006.

BY THE COURT:

s/ F. A. GOSSETT  
United States Magistrate Judge